

## **REMARKS/ARGUMENTS**

### **I. Amendments to the Specification:**

For the convenience of the Examiner and the Applicant, all reference to amendments to the specification and support for new claims relate to the paragraph numbering of the recent publication of the present application, US 2002/0119940 A1, attached here to. Prior amendments made subsequent to publication are included in the text of amended claims.

Amendments have been made to paragraph [0083], to identify the Kozak sequence as in boldface and italics as the bold face of the application as filed did not show up on publication. Also errors are corrected to the identification of the overlined sites HindIII and NcoI.

Amendments have been made to paragraph [0090] to identify the depicted OPTIVS8 with a new SEQ ID NO:13 that is believed to more accurately describe the disclosed sequence which is clearly not contiguous but includes a relatively tract of bases that may be random sequence or may include specific sequences such as, for an example, restriction enzyme sites, between the 5' splice site and the branch point as disclosed in paragraphs [0090 – 0096].

Amendments have been made to paragraphs [0091 - 94], to add SEQ IDs to the disclosed sequences in accordance with the Examiner's requirement that claimed sequences be identified with SEQ IDs. SEQ ID NO: 14 – 19 are added to most closely define the disclosed sequences. Paragraph [092] is further amended to add back the underlining to the sequence YNYTRAY, which appeared to have been lost on publication.

A new sequence listing is provided. This listing adds new SEQ ID NO:13 – 19, which identify sequences explicitly set out in the text. It is believed that the amendments are fully supported by the specification as originally filed and that no new matter is added with the requested amendments.

### **II. Amendments to the claims**

The Office Communication states that the amendment filed 21 July 2003, although a *bona fide* reply, is not fully compliant with the provisions of revised 37 C.F.R. 1.121, because the amendment failed to account for the status of the claims 17 - 44 and 57 - 64. The Office Action further states that Applicant should reply to the communication by filing a new claim listing according to the revised Rule 1.121 format, which clearly indicates the status of all claims pending during prosecution.

Accordingly, Applicant submits a new listing of claims, which indicates the status of all claims pending during prosecution. In particular, claims 1 - 4, 6 - 9, 11 - 13, 15 - 49, and 56 - 64 are cancelled,


Application No. 09/754,014  
Amendment Dated August 17, 2004  
Reply to Office Action of 4/20/04

and new claims 65 - 76 are added. Consideration of new amendments and an amended sequence listing, believed to place the application in condition for allowance, is respectfully requested. Claims 5, 10, 14, 50 - 55, and 65 - 76 are pending in the application.

**Conclusion**

The Commissioner is authorized to charge any additional fees incurred in this application or credit any overpayment to Deposit Account No. 50-1922. Should the Examiner have any questions, please do not hesitate to call Applicant's attorney at 832-446-2421.

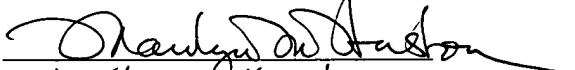
Respectfully submitted,

By 

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**CERTIFICATE OF MAILING UNDER 1.11(a)**

I hereby certify that this document is being deposited with the U.S. Postal Service Express Mail Service in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on August 18, 2004.

  
Marilyn M. Huston